

# **EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CHAD BURGE,

Plaintiff,

VS.

CODY ALLEN HOWELL,  
PENSKE LEASING AND RENTAL  
COMPANY, and OLMSTED KIRK  
PAPER COMPANY

Defendants,

CIVIL ACTION NO.

## INDEX OF ALL MATTERS FILED

1. Return of Service to Defendant Penske Leasing and Rental Company
2. Return of Service to Defendant Olmsted Kirk Paper Company
3. Plaintiff Chad Burge's Original Petition Filed in State Court
4. State Court Docket Sheet
5. List of All Counsel of Record

## **EXHIBIT 2**

**CAUSE NO. 2016-12944****CHAD BURGE,  
PLAINTIFF****VS.****CODY ALLEN HOWELL, ET AL.,  
DEFENDANT**§  
§  
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§**IN THE 55TH JUDICIAL DISTRICT COURT****HARRIS COUNTY, TX****RETURN OF SERVICE****ON Monday, March 14, 2016 AT 02:10 PM - CITATION, PLAINTIFF'S ORIGINAL PETITION CAME TO HAND.**

**ON Friday, March 18, 2016 AT 03:15 PM, I, JOHN WILLMS, PERSONALLY DELIVERED THE ABOVE-NAMED DOCUMENTS TO: PENSKE LEASING AND RENTAL COMPANY (IS A DELAWARE CORPORATION), C/O REGISTERED AGENT CORPORATION SERVICE COMPANY D/B/A CSC LAWYERS INCORPORATING SERVICE COMPANY, BY DELIVERING TO SUE VERTREES, CUSTOMER SERVICE LEADER, 211 E. 7TH STREET STE 620, AUSTIN, TRAVIS COUNTY, TX 78701.**

My name is JOHN WILLMS. My address is 1201 Louisiana, Suite 370, Houston, Texas 77002, USA. I am a private process server authorized by and through the Supreme Court of Texas (SCH 11185, Expires Tuesday, October 31, 2017). My date of birth is May 24, 1994. I am in all ways competent to make this statement, and this statement is based on personal knowledge. I am not a party to this case, and have no interest in its outcome. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, Texas on Friday, March 18, 2016.

**/S/ JOHN WILLMS**

DocID: P235370\_3

2016-12944

## **EXHIBIT 3**

**CAUSE NO. 2016-12944**

CHAD BURGE,  
**PLAINTIFF**

VS.

CODY ALLEN HOWELL, ET AL.,  
**DEFENDANT**

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§

IN THE 55TH JUDICIAL DISTRICT COURT

HARRIS COUNTY, TX

**RETURN OF SERVICE**

**ON Monday, March 14, 2016 AT 02:10 PM - CITATION, PLAINTIFF'S ORIGINAL PETITION CAME TO HAND.**

**ON Monday, March 21, 2016 AT 11:15 AM, I, GUY CONNELLY, PERSONALLY DELIVERED THE ABOVE-NAMED DOCUMENTS TO: OLMSTED KIRK PAPER COMPANY (IS A TEXAS CORPORATION), C/O REGISTERED AGENT GAIL MARK GRAF, BY DELIVERING TO CHRIS JOHNSTON, CFO, AUTHORIZED TO ACCEPT SERVICE ON BEHALF OF, 1601 VALLEY VIEW LANE, DALLAS, DALLAS COUNTY, TX, 75234.**

My name is GUY CONNELLY. My address is 1201 Louisiana, Suite 370, Houston, Texas 77002, USA. I am a private process server authorized by and through the Supreme Court of Texas (SCH 02201, Expires Sunday, September 30, 2018). My date of birth is November 4, 1951. I am in all ways competent to make this statement, and this statement is based on personal knowledge. I am not a party to this case, and have no interest in its outcome. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Collin County, Texas on Monday, March 21, 2016.

**/S/ GUY CONNELLY**

DocID: P235370\_2

2016-12944

## **EXHIBIT 4**

RECEIPT NUMBER 0.00

TRACKING NUMBER 73224787 CTJ

CAUSE NUMBER 201612944

**PLAINTIFF:** BURGE, CHAD  
**vs.**  
**DEFENDANT:** HOWELL, CODY ALLEN

In The 55th  
 Judicial District Court of  
 Harris County, Texas

## CITATION CORPORATE

**THE STATE OF TEXAS**  
 County of Harris

TO: OLMSTED KIRK PAPER COMPANY (IS A TEXAS CORPORATION)  
 MAY BE SERVED THROUGH ITS REGISTERED AGENT  
 GAIL MARK GRAF  
 1601 VALLEY VIEW LANE DALLAS TX 75234

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION.

This instrument was filed on the 29th day of February, 2016, in the  
 above cited cause number and court. The instrument attached describes the claim against you.

**YOU HAVE BEEN SUED;** you may employ an attorney. If you or your attorney do not file a written answer with the  
 District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were  
 served this citation and petition, a default judgment may be taken against you.

## TO OFFICER SERVING:

This Citation was issued under my hand and seal of said Court, at Houston, Texas, this 9th day of  
March, 2016.

Issued at request of:  
 DEL TORO, CRYSTAL  
 600 TRAVIS, SUITE 7300  
 HOUSTON, TX 77002  
 TEL: (713) 223-5393  
 Bar Number: 24090070



*Chris Daniel*  
**CHRIS DANIEL**, District Clerk  
 Harris County, Texas  
 201 Caroline, Houston, Texas 77002  
 P.O. Box 4651, Houston, Texas 77210

Generated by: COLLINS, IRIS TROISHA  
 IKS//10321535

## OFFICER/AUTHORIZED PERSON RETURN

I received this citation on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., endorsed

the date of delivery thereon, and executed it at \_\_\_\_\_

(PRINT ADDRESS)

(CTJ)

in \_\_\_\_\_ County, Texas on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M.,

by delivering to \_\_\_\_\_, by delivering to its

(THE DEFENDANT CORPORATION NAMED IN CITATION)

\_\_\_\_\_ in person, whose name is \_\_\_\_\_

(REGISTERED AGENT, PRESIDENT, or VICE-PRESIDENT)

a true copy of this citation, with a copy of the \_\_\_\_\_ Petition attached,

(DESCRIPTION OF PETITION, E.G. "PLAINTIFF'S ORIGINAL")

and with accompanying copies of \_\_\_\_\_

(ADDITIONAL DOCUMENTS, IF ANY, DELIVERED WITH THIS PETITION)

I certify that the facts stated in this return are true by my signature below on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

FEE: \$ \_\_\_\_\_

By: 3/21/16

Printed Name: \_\_\_\_\_

As Deputy for: \_\_\_\_\_  
 (PRINTED NAME & TITLE OF SHERIFF OR CONSTABLE)

Affiant Other Than Officer

On this day, \_\_\_\_\_, known to me to be the person whose signature  
 appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was  
 executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public



2/29/2016 4:04:00 PM  
 Chris Daniel - District Clerk Harris County  
 Envelope No. 9356030  
 By: Nelson Cuero  
 Filed: 2/29/2016 4:04:00 PM

2016-12944 / Court: 055

CAUSE NO. \_\_\_\_\_

CHAD BURGE	§	IN THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
	§	_____ JUDICIAL DISTRICT
CODY ALLEN HOWELL,	§	
PENSKE LEASING AND RENTAL	§	
COMPANY, and OLMSTEAD KIRK	§	
PAPER COMPANY	§	JURY TRIAL DEMANDED

**PLAINTIFF'S ORIGINAL PETITION**

Plaintiff Chad Burge files this Original Petition complaining of Defendants Cody Allen Howell, Penske Leasing and Rental Company and Olmstead Kirk Paper Company and would respectfully show the following:

**I. DISCOVERY LEVEL**

Plaintiff asserts that a Level 3 Discovery Control Plan should govern this case.

**II. PARTIES**

**Plaintiff Chad Burge ("Plaintiff")** is a resident of Jefferson County, Texas.

**Defendant Cody Allen Howell ("Howell")** is an individual who resides in Harris County and can be served via personal service at his residence: Cody Allen Howell, 1688 Avenue B, Nome, Texas 77629, or wherever he may be found.

**Defendant Penske Leasing and Rental Company ("Penske")** is a Delaware corporation with its principal place of business in Texas, in Harris County, Texas. It may be served through its registered agent for service, Corporation Service Company dba CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620 Austin, TX 78701-3218.

**Defendant Olmsted Kirk Paper Company ("Olmsted")** is a Texas corporation with its principal place of business in Dallas, Texas. It may be served through its registered agent for service, Gail Mark Graf, 1601 Valley View Lane, Dallas, Texas 75234.

### **III. JURISDICTION AND VENUE**

This court has jurisdiction over this matter because the damages in question exceed the minimum jurisdiction of this court. Venue is proper in Harris County because one of more defendants are considered residents of Harris County.

### **IV. BACKGROUND**

On or about January 21, 2016, Plaintiff was driving his personal vehicle on East Cardinal Drive in Beaumont, Texas. Defendant Howell was operating a commercial truck owned by Defendant Penske, and driving behind Plaintiff's vehicle. Defendant Howell was operating the commercial truck in the course and scope of his employment with Defendant Olmsted.

Plaintiff reduced his speed for slow moving traffic ahead. Defendant Howell failed to pay attention to the road and failed to control his speed, and struck Plaintiff's vehicle from behind.

As a result of the incident, Defendant Howell was cited for failure to control his speed.

As a result of the incident, Plaintiff was hospitalized and has had additional medical treatment. He has suffered significant injuries to his back, neck, and other parts of his body.

### **V. CAUSE OF ACTION: Negligence**

Plaintiff incorporates the previous allegations.

At the time of the incident made the basis of this suit. Defendant Howell was operating his vehicle in a negligent and careless manner in the following respects, among others:

- a. Failed to keep a proper lookout;
- b. Failed to operate a motor vehicle in a safe and reasonable manner;
- c. Failed to safely control his speed; and
- d. Such other acts and omissions that will be shown at trial.

At the time of the incident, Defendant Howell was an agent, employee and/or servant of Defendant Olmsted. As such, Defendant Olmsted is responsible for the conduct of Defendant Howell under the doctrine of *respondeat superior*.

Additionally, Defendant Penske owned the vehicle in question and negligently entrusted the vehicle and duties and responsibilities to Defendant Howell. This negligence was also a proximate cause of Plaintiff's damages.

Each of these acts and omissions, singularly or in combination with others, constitute negligence which was the proximate cause of this incident, and the injuries and damages sustained by the Plaintiff.

## **VI. DAMAGES**

Plaintiff incorporates the previous allegations.

By reason of the occurrence made the basis of this action, including the conduct on the part of Defendants, Plaintiff sustained severe bodily injuries. Plaintiff has suffered physical pain and mental anguish and, in reasonable medical probability, will continue to do so for the balance of his natural life.

As a result of the foregoing injuries, Plaintiff has incurred reasonable and necessary medical expenses in the past and, in reasonable probability, will incur reasonable medical expenses in the future.

Additionally, as a result of the injuries sustained in the occurrence, Plaintiff has suffered in the past and will, in reasonable medical probability, continue to suffer permanent physical impairment.

Pleading further, in the alternative, if it is shown that Plaintiff was suffering from some pre-existing injury, disease, and/or condition, then such was aggravated and/or exacerbated as a proximate result of the occurrence made the basis of this lawsuit.

As a result of the foregoing injuries, Plaintiff has lost the ability to perform household services and, in reasonable probability, this loss is permanent.

Plaintiff states that, at this time, he seeks monetary relief between \$200,000 and \$1,000,000.00.

#### **PRAYER**

WHEREFORE Plaintiff prays for judgment against Defendants Cody Allen Howell, Penske Leasing and Rental Company, and Olmsted Kirk Paper Company, for his actual damages in the amount of between \$200,000.00 and \$1,000,000.00 pre-and post-judgment interest, all costs of court, and all such other and further relief, at law and in equity, to which he may be justly entitled.

Respectfully submitted,

**THE BUZBEE LAW FIRM**

By: /s/ Anthony G. Buzbee  
Anthony G. Buzbee  
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**ATTORNEYS FOR PLAINTIFF**

## **EXHIBIT 5**





## 201612944 - BURGE, CHAD vs. HOWELL, CODY ALLEN (Court 055)

Chronological History  
 Print All  
 (non-financial)

Summary Court Costs Appeals Judgments/Events Cost Statements Settings Transfers Services/Notices Post Trial Writs Court Registry Abstracts Child Support Parties Images

\* Note: Only non-confidential public civil/criminal documents are available to the Public. All non-confidential Civil documents are imaged. In Family Cases, select non-confidential documents and all e-filings are available in electronic format (not every document is available for electronic viewing and a document may be filed in the case that is not viewable electronically). In Criminal Cases, select non-confidential documents are available in electronic format (not every document is available for electronic viewing and a document may be filed in the case that is not viewable electronically). If the case or Civil document you are looking for is not available and should be, please [click here](#) to notify Customer Service.

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Purchase Order  
 ( 0 documents )

Print List

Image No.	Title	[Reset Sort]	Post Jdgm	Date	Pages	Add Entire Case
69501703	Return of Service			03/22/2016	1	Add to Basket
69485965	Return of Service			03/21/2016	1	Add to Basket
69383379	Civil Bureau Process Pick-Up Form			03/09/2016	1	Add to Basket
69193534	Plaintiffs Original Petition			02/29/2016	5	Add to Basket
>  69193535	Civil Case Information Sheet			02/29/2016	2	Add to Basket
>  69193536	Civil Process Request			02/29/2016	2	Add to Basket
>  69193537	Civil Process Request			02/29/2016	2	Add to Basket

## **EXHIBIT 6**



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CHAD BURGE,

Plaintiff,

VS.

CODY ALLEN HOWELL,  
PENSKE LEASING AND RENTAL  
COMPANY, and OLMSTED KIRK  
PAPER COMPANY

Defendants,

[illegible]

CIVIL ACTION NO.

## LIST OF ALL COUNSEL OF RECORD

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**Attorneys for Defendants**  
**Penske Leasing and Rental Company and**  
**Olmsted Kirk Paper Company**